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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,680	11/07/2005	Klaus Russke	BU-07PCT	2233
40570	7590	09/24/2009	EXAMINER	
FRIEDRICH KUEFFNER			PEDDER, DENNIS H	
317 MADISON AVENUE, SUITE 910				
NEW YORK, NY 10017			ART UNIT	PAPER NUMBER
			3612	
			MAIL DATE	DELIVERY MODE
			09/24/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/531,680	RUSSKE, KLAUS	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dennis H. Pedder	3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 July 2009.
- 2a) This action is **FINAL**.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1 and 3-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3-10 and 12 is/are rejected.
- 7) Claim(s) 11 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-5, 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schutt et al. US 6,467,832 in view of either Roth et al., US 5,979,970 or Roth, US 6,053,560, previously cited.

3. Schutt et al. have the rear part 4 independently movable as seen in figures 4-6, single front roof part 3 connected with swivel arms 11,12 located partially behind the front and beneath the rear roof part, and vertical lowered position of the front roof part. The rear roof part provides space for passage of the front roof part and is below the windshield, or height of the closed roof, when lowered.

4. Schutt et al. lack the claimed dual rigid front roof parts, movable to overlapping position, taught by either Roth et al. or Roth prior to the invention of applicant. It would have been obvious to one of ordinary skill to provide in Schutt et al. overlapping roof parts also movable to vertical position as taught by Roth et al. or Roth in order to cover a larger passenger compartment.

5. As to claim 4, arms 11, 12 form a four bar linkage.

6. As to claim 5, see figure 7 of Schutt et al.

7. As to claim 8, the rear roof part overlaps at window 5, figure 8.

8. Claims 9-10 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Schutt et al., US 6,467,832 in view of Schutt et al., US 6,572,175 or Antreich.
9. Claim 9 lacks the vertical stored position of the front roof parts as well as the final position below the beltline. Both secondary references above have the dual rigid front roof parts, movable to overlapping position, and stored in horizontal position. It would have been obvious to one of ordinary skill to provide in Schutt et al. dual front roof parts as taught by either Schutt et al. (175) or Antreich in order to cover a larger passenger compartment.
10. Claims 6, 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schutt et al. in view of Roth et al. or Roth as applied to claim 1 above, and further in view of Antreich.
11. As to claim 6, see figure 6 of Antreich.
12. As to claim 7, see figures 12,13 and accompanying discussion.
13. It would have been obvious to one of ordinary skill to provide in the references above a rear roof part held erect over the collapsed front roof parts as well as covering the rear passage opening as taught by Antreich in order to eliminate the cover 7 of Schutt et al. (832) and thus reduce expense of manufacture.
14. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schutt et al. in view of Roth et al. or Roth as applied to claim 1 above, and further in view of Weissrich et al.
15. It would have been obvious to one of ordinary skill to provide in the references above computer control for roof movement as taught by Weissrich et al. in order to control precisely.

***Allowable Subject Matter***

16. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

17. Upon further consideration, the prior art of record lacks the claimed common covering.

***Response to Arguments***

18. Applicant's arguments filed 7/27/2009 have been fully considered but they are not persuasive. Firstly, no front roof parts nested into one another in the closed position is apparently disclosed in this application.

19. Secondly, remarks concerning the object of the present application being to make it possible to lower the rear roof part even during high travel speeds does not appear to be disclosed in this application. In addition, the claim language "so that the rear roof part does not protrude above the closed height of the automobile body" refers to "when the rear roof part is opened", a situation in both the references advanced and that of applicant.

20. Thirdly, no claim to the nesting of the front roof parts and opening during high speed travel is noted and remarks are therefore not relevant.

***Conclusion***

21. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (571) 272-6667. The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dennis H. Pedder/  
Primary Examiner, Art Unit 3612

Dennis H. Pedder  
Primary Examiner  
Art Unit 3612

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9/22/2009